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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/748,448

12/30/2003

Jeff Ondrla

1671-0285

2398

28078 7590 03/17/2009

MAGINOT, MOORE & BECK, LLP

CHASE TOWER

111 MONUMENT CIRCLE

SUITE 3250

INDIANAPOLIS, IN 46204

EXAMINER

BLANCO, JAVIER G

ART UNIT

PAPER NUMBER

3774

MAIL DATE

DELIVERY MODE

03/17/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: JEFF ONDRLA, GERALD ROSS WILLIAMS, JR.
JOSEPH PATRICK IANNOTTI, PAUL GIBBONS,
AND JAMES EDWARD CLARK

Application No. 10/748,448
Technology Center 3700

Mailed: March 17, 2009

Before KRISTA ZELE *Deputy Chief Appeals Administrator*
ZELE, *Deputy Chief Appeals Administrator.*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on February 26, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S ANSWER

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

A review of the file finds that the grounds of rejection to be reviewed on appeal of the claims as provided in the Examiner's Answer mailed August 15, 2008 under the heading "Grounds of rejection to be Reviewed on Appeal" is either unclear or is not consistent with the grounds of rejection of claims set forth in the last Office action of record. The grounds of rejection to be reviewed on appeal as provided in the Examiner's Answer must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Furthermore, the examiner must provide a clear statement of whether examiner agrees or disagrees with the statement of grounds of rejection to be reviewed as set forth in the brief and an explanation of any disagreement. *See also Manual of Patent Examining Procedure* (MPEP) § 1207.02 (8th ed. Rev. 6, Sept 2007) for details.

A review of the Examiner's Answer finds that it is unclear what rejected claims are on appeal as compared to the Appeal Brief and/or the Examiner's Answer does not clearly address differences between rejections set forth in the Examiner's Answer and those addressed in the brief. Specifically, the Examiner's Answer indicates that the rejection of claims 19-26 were neither withdrawn by the Examiner nor discussed in the Examiner's Answer. All claims on appeal must be discussed in the Examiner's Answer.

Clarification of the record is required for all Grounds of rejection to be reviewed on appeal for all claims.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

1) vacate the Examiner's Answer mailed August 15, 2008;

2) generate a new Examiner's Answer setting forth the correct Grounds of rejection to be reviewed on appeal and to correct other sections of the Answer as may be required;

3) include the approval of the TC Director or his/her designee (as required for any new grounds of rejection); and

4) for such further action as may be required

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ/MTV/ak

Maginot Moore & Beck, LLP
Chase Tower
111 Monument Circle
Suite 3250
Indianapolis, IN 46204